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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/606,441 | 06/26/2003 | Daniel J. DeClerck | CE10654R/10-163 | 2933 |
| 22917 | 7590 | 08/25/2005 | EXAMINER | |
| MOTOROLA, INC. 1303 EAST ALGONQUIN ROAD IL01/3RD SCHAUMBURG, IL 60196 | | | ORGAD, EDAN | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2684 | |

DATE MAILED: 08/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/606,441

Applicant(s)

DECLERCK ET AL.

Examiner

Edan Orgad

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 5, 6, 10, 11, 15, 16 and 20 is/are rejected.
- 7) ☒ Claim(s) 2-4, 7-9, 12-14, 17-19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 1, 5, 6, 10, 11, 15, 16 and 20 have been considered but are moot in view of the new ground(s) of rejection.

It should be noted, that although Zehavi distinguishes between soft handoff as one where the base stations does not send the same power control bit values because they are typically at different locations and a softer handoff is where the base stations disclose identical power control bit values because the base stations are co-located. It is very possible to misconstrue, Zehavi's definition, as a finite definition. Examiner would like point out that is clear from Saints (US 6,097,972), two situations in which a mobile station can receive multiple signal components that contain the same power control command (i.e., soft handoff). The first is when a mobile station receives two or more multi-path signal components from the same base station, in which case it is clear that the power control bits contained in each component are identical (see Saints, col. 3, lines 4-23).

Even though, Saints discloses that when sectorized base stations are used, and a mobile station receives signals from two or more sectors of the same base station, the situation is commonly referred to as a "softer" handoff" while identical power control bits are transmitted from each sector. Saints did clarify, that a soft handoff is when a mobile station receives two or more multi-path signal components from the same base station, in which case it is clear that the power control bits contained in each component are identical.

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Furthermore, it should be noted that applicant did not clarify in the claim language that a soft handoff does not include a softer handoff, since there is no mention of the base stations not being co-located.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 6, 11 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zehavi (US 6,185,199) in view of Saints et al (US # 6,097,972) (US 2002/0072384).

Regarding claim 1, Zehavi teaches a method in a wireless communication system for mitigating power-control errors during a soft handoff of a mobile unit, the method comprising: programming a plurality of base stations with a uniform power-control bit pattern to be sent to the mobile unit during a plurality of power-control bit times, before the mobile unit is acquired on a reverse link (col. 3, lines 1-14).

However, Zehavi teaches a softer handoff is utilized for timing transmissions of the uniform power-control bit pattern such that the plurality of base stations, when transmitting, send identical power-control bits during each of the plurality of power-control bit times (col. 12, lines 49-63). But fails to specifically disclose transmitting for use during a soft handoff of the mobile unit.

In related art, Saints discloses a soft handoff when a mobile station receives two or more multi-path signal components from the same base station, in which case it is clear that the power control bits contained in each component are identical (see Saints, col. 3, lines 4-23).

Therefore it would have been obvious to one of ordinary skill at the time the invention was made to use Saints teaching of a soft handoff using identical power control bit values with Zehavi in order to provide Zehavi with increased reliability with the power control commands.

Regarding claim 6, 11 and 16, Zehavi teaches an apparatus for use in a wireless communication system for mitigating power-control errors during a soft handoff of a mobile unit, the apparatus for use with a base station of a plurality of base stations attempting to communicate with the mobile unit, the apparatus comprising: a processor for controlling the base station (col. 3, lines 1-14), a memory element coupled to the processor for programming the processor, the memory element comprising a uniform power-control bit pattern to be sent by different ones of the plurality of base stations to the mobile unit during a plurality of power-control bit times, before the mobile unit is acquired on a reverse link (col. 12, lines 49-63); and a synchronizer coupled to the processor for cooperating with the processor to time transmissions of the uniform power-control bit pattern such that the plurality of base stations, when transmitting, send identical power-control bits during each of the plurality of power-control bit times (col. 6, line 66, col. 7, line 10).

However, Zehavi teaches a softer handoff is utilized for timing transmissions of the uniform power-control bit pattern such that the plurality of base stations, when transmitting, send

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identical power-control bits during each of the plurality of power-control bit times (col. 12, lines 49-63). But fails to specifically disclose transmitting for use during a soft handoff of the mobile unit.

In related art, Saints discloses a soft handoff when a mobile station receives two or more multi-path signal components from the same base station, in which case it is clear that the power control bits contained in each component are identical (see Saints, col. 3, lines 4-23).

Therefore it would have been obvious to one of ordinary skill at the time the invention was made to use Saints teaching of a soft handoff using identical power control bit values with Zehavi in order to provide Zehavi with increased reliability with the power control commands.

Claims 5, 10, 15 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zehavi (US 6,185,199) in view of Saints et al (US # 6,097,972) and further in view of Chheda (US 2002/0072384).

Regarding claims 5, 10, 15 and 20, Zehavi fails to specifically disclose timing the transmissions comprises synchronizing the transmissions through a synchronization signal made available to the plurality of the base stations. However, in the same field of endeavor, Chheda discloses timing the transmissions comprises synchronizing the transmissions through a synchronization signal made available to the plurality of the base stations (§ 0038). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include timing the transmissions comprises synchronizing the transmissions through a synchronization signal made available to the plurality of the base stations in order to provide Zehavi with increased performance during a soft handoff process.

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Allowable Subject Matter

Claims 2-4, 7-9, 12-14 and 17-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Regarding claims 2-4, 7-9, 12-14 and 17-19, please see reasons for allowance in office action dated 3/11/05.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edan Orgad whose telephone number is 571-272-7884. The examiner can normally be reached on 8:00AM to 5:30PM with every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on 571-272-7882. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EDAN ORGAD
PATENT EXAMINER/TELECOMM.

E.O. 8/12/05